

---

# ***Public Utilities Commission of the State of California***

## ***Results of Public Agenda 3187***

***Meeting Held on Thursday, February 15, 2007 10:00 a.m.***

***San Francisco, California***

### **Commissioners**

**Michael R. Peevey, President**

**John A. Bohn**

**Rachelle B. Chong**

**Dian M. Grueneich**

*Website: <http://www.cpuc.ca.gov>*

---

### **Scheduled Commission Meetings**

**505 Van Ness Avenue, San Francisco**

<i>Ratesetting Deliberative Meeting*</i> <i>Room 5305</i> <i>(1:30 p.m.)</i> <b><i>Closed to the Public</i></b>	<i>Commission Meeting</i> <i>Auditorium</i> <i>(10 a.m.)</i> <b><i>Open to the Public</i></b>
Monday, February 26, 2007 (San Francisco)	Thursday, March 01, 2007 (San Francisco)
Monday, March 12, 2007 (San Francisco)	Thursday, March 15, 2007 (San Francisco)
Monday, April 02, 2007 (San Francisco)	Thursday, April 05, 2007 (San Francisco)
Monday, April 30, 2007 (San Francisco)	Thursday, May 03, 2007 (San Francisco)
Monday, May 21, 2007 (San Francisco)	Thursday, May 24, 2007 (San Francisco)

*\*Ratesetting Deliberative Meeting dates are reserved as noted but will be held only if there are ratesetting matters to be considered and a Commissioner has requested that a Ratesetting Deliberative Meeting be held.*

For further information contact the Public Advisor  
(415) 703-2074 E-mail: [public.advisor@cpuc.ca.gov](mailto:public.advisor@cpuc.ca.gov)



This location is accessible to people with disabilities. If specialized accommodations for the disabled are needed, e.g. sign language interpreters, please call the Public Advisor at (415) 703-2074 or TTY# (415) 703-5282 or toll free # 1-866-836-7825 three business days in advance of the meeting.

---

## PUBLIC COMMENT

The following items are not subject to public comment:

- All items on the closed session agenda; these are HEX and EX items.
- 

Public Comment:

## Consent Agenda

*Items shown on the Consent Agenda will be taken up and voted on as a group in one of the first items of business of each Commission meeting. Items may be removed from the Consent Agenda for discussion on the Regular Agenda at the request of any Commissioner prior to the meeting.*

## Orders and Resolutions

### 1                    Res TL - 19084

[6211]            Resolution approving issuance of charter-party carrier certificates pursuant to Section 5374(b) of the Public Utilities Code.

**Outcome    Approved**

[Res TL - 19084](#)

Yes: (Bohn, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

### 2                    Res ALJ-3187

[6212]            Ratification of preliminary determination of category for proceedings initiated by application. The preliminary determinations are pursuant to Rule 7.1 of the Commission's Rules of Practice and Procedure.

**Outcome    Approved**

[Res ALJ-3187](#)

Yes: (Bohn, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

**3 Res W-4628 - Tahoe Park Water Company.**

[6243] This resolution authorizes a general rate increase producing additional annual revenue of \$114,781 or 55.6% in 2007.

Agenda 3185, Item 15 1/11/2007

**Outcome Held (3/15/07, Consent Agenda.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**4 Res W-4630**

[6254] This resolution affirms Water Division's ministerial disposition of Alisal Water Corporation - Salinas District's Advice Letter No. 107 for expansion of service area contiguous to the existing service area map.

(Exam Coughlan)

Agenda 3186, Item 5 1/25/2007 (Bohn)

**Outcome Held (3/1/07, Consent Agenda. Further consideration.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**5 Res EGPB-2**

[6255] This resolution grants approval of the Final Report on the Audit of the El Segundo Generating Station, performed by the Electric Generation Performance Branch of the Consumer Protection and Safety Division, and authorizes public disclosure of the Final Audit Report.

**Outcome Approved**

[Res EGPB-2](#)

Yes: (Bohn, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

**6**

[6280]

**R93-04-003 - Rulemaking on the Commission's own motion to govern open access to bottleneck services and establish a framework for network architecture development of dominant carrier networks.**

I93-04-002; R95-04-043; I95-04-044 - Related matters. This decision closes the Section 271 Phase of the consolidated Open Access and Network Architecture Development and Local Competition dockets. The primary purpose has been satisfied.

(Comr Peevey - ALJ Reed)

**Outcome Signed**[D07-02-006](#)

Yes: (Bohn, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

**7**

[6290]

**A02-06-035 - Southern California Gas Company.**

For approval of its application regarding Year Eight (2001-2002) gas cost incentive mechanism. This decision concludes that the September 6, 2006 motion to withdraw the claims made by Southern California Edison Company in this proceeding is moot in light of D06-12-034. This proceeding is closed.

(Comr Peevey - ALJ Wong)

**Outcome Signed**[D07-02-007](#)

Yes: (Bohn, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

**8**

[6291]

**A01-06-027 - Southern California Gas Company.**

For approval of its application regarding Year Seven (2000-2001) under its experimental gas cost incentive mechanism and related gas supply matters. This decision concludes that the September 6, 2006 motion to withdraw the claims made by Southern California Edison Company in this proceeding is moot in light of D06-12-034. This proceeding is closed.

(Comr Peevey - ALJ Wong)

**Outcome Signed**[D07-02-008](#)

Yes: (Bohn, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

**9**

[6293]

**A03-06-040 - Southern California Gas Company.**

For approval of its application in compliance with Resolution G-3334 for a system of firm, tradable receipt point capacity rights and related provisions. This decision dismisses the petition for modification of D04-04-015 because that decision is now moot as the result of the adoption of a new system of firm access rights in D06-12-031. This proceeding is closed.

(Comr Peevey - ALJ Wong)

**Outcome Signed**

[D07-02-009](#)

Yes: (Bohn, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

**10**

[6294]

**I99-07-003 - Investigation on the Commission's own motion to consider the costs and benefits of various promising revisions to the regulatory and market structure governing California's natural gas industry and to report to the California legislature on the Commission's findings.**

This decision dismisses the four petitions for modification of D01-12-018 because that decision is now moot as the result of the adoption of a new system of firm access rights in D06-12-031. This proceeding is closed.

(Comr Peevey - ALJ Wong)

**Outcome Signed**

[D07-02-010](#)

Yes: (Bohn, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

**11**

[6295]

**R06-05-027 - Order Instituting Rulemaking to continue implementation and administration of California Renewables Portfolio Standard Program.**

This decision conditionally accepts the proposed renewable energy procurement plans (Plans) of Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company. Within 15 days of the date the order is mailed, each utility shall file an amended Plan consistent with the orders and guidance summarized in Appendix A. Unless suspended by the Energy Division Director, within 20 days of the date the order is mailed, each utility shall use its amended Plan for its 2007 Solicitation. The schedule for the 2007 Solicitation is stated in Appendix B, with intended completion of the solicitation by year end 2007. Each utility remains responsible for achieving targets, including 20% by 2010, within flexible compliance criteria, consistent with prior orders. The use of advice letters to present contracts for Commission consideration and approval is clarified and streamlined. The assigned Commissioner or Administrative Law Judge shall set the schedule to for the filing of draft Plans for the 2008 Solicitation. This proceeding remains open.

(Comr Peevey - ALJ Mattson)

**Outcome Signed**[D07-02-011](#)

Yes: (Bohn, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

**12**

[6297]

**A04-06-025 - Southern California Gas Company.**

For approval of its gas cost incentive mechanism regarding Year Ten (2003-2004). This decision concludes that the September 6, 2006 motion to withdraw the claims made by Southern California Edison Company in this proceeding is moot in light of D06-12-034. This proceeding is closed.

(Comr Peevey - ALJ Wong)

**Outcome Signed**[D07-02-012](#)

Yes: (Bohn, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

**13**

[6298]

**A03-06-021 - Southern California Gas Company.**

For approval of its gas cost incentive mechanism regarding Year Nine (2002-2003). This decision concludes that the September 6, 2006 motion to withdraw the claims made by Southern California Edison Company in this proceeding is moot in light of D06-12-034. This proceeding is closed.

(Comr Peevey - ALJ Wong)

**Outcome Signed**[D07-02-013](#)

Yes: (Bohn, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

**14**

[6306]

**A06-10-029 - Golden State Water Company (GSWC).**

This decision grants the application of GSWC, pursuant to Sections 816-830 of the Public Utilities Code to (1) issue, sell and deliver by public offering or private placement securities not exceeding \$200,000,000 in aggregate principal offering amount, including common shares, bonds, debentures and notes for purposes permitted under Public Utilities Code Section 817 and related authorizations. This proceeding is closed.

(Comr Bohn - ALJ Pulsifer)

Agenda 3186, Item 18 1/25/2007 (Bohn)

**Outcome Signed**[D07-02-014](#)

Yes: (Bohn, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

**15**

[6311]

**A02-11-017 - Pacific Gas and Electric Company.**

For authority, among other things, to increase revenue requirements for electric and gas service and to increase rates and charges for gas service effective on January 1, 2003. I03-01-012; A02-09-005 - Related matters. This decision extends the statutory deadline for concluding the proceeding from February 26, 2007 to August 26, 2007.

(Comr Peevey - ALJ Yacknin)

**Outcome Signed**[D07-02-015](#)

Yes: (Bohn, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

**16**

[6312]

**Res SX-76**

This resolution authorizes the Supervisor of the Rail Crossings Engineering Section, of the Commission's Consumer Protection & Safety Division, to grant temporary deviations from General Order (GO) 26-D during the construction of grade separation structures at the time the authorization to alter the crossing is granted pursuant to GO 88-B.

**Outcome Approved**[Res SX-76](#)

Yes: (Bohn, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

**17**

[6314]

**A06-09-017 - Ygnition Networks, Inc.**

This decision grants a certificate of public convenience and necessity authorizing the provision of limited facilities-based and resold telecommunications services in this state. This proceeding is closed.

(Comr Chong - ALJ Prestidge)

**Outcome Signed**[D07-02-016](#)

Yes: (Bohn, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

**18**

[6324]

**A05-09-018 - Telecom House Incorporated.**

For a certificate of public convenience and necessity (CPCN) to provide resold local exchange service in California. This decision denies the application for expansion of its existing CPCN to authorize the provision of resold local exchange services, based on Applicant's failure to timely file required reports as required by the terms of its existing CPCN, which authorizes the provision of resold interexchange services in this state, and Applicant's failure to clarify in writing or correct discrepancies between the income stated in its annual report for 2003, 2004, and 2005 and its user fee and public program reports for this period, as directed by the Commission Telecommunications Division (TD). The Commission directs the Commission TD to take the requisite steps to revoke Applicant's existing CPCN if Applicant does not provide a satisfactory explanation of the discrepancies between the income stated in its 2003, 2004, and 2005 annual reports and its user fee and public program reports for this period, as described in the September 21, 2006 letter from the Director of TD to Applicant, or to file corrected reports and pay any additional fees and surcharges due to the Commission, within 45 days of the effective date of this order. This proceeding is closed.

(Comr Peevey - ALJ Prestidge)

**Outcome Held (3/15/07, Consent Agenda.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)



- 
- 19**  
[6326]      **A06-09-004 - Smart choice Communications, LLC.**  
This decision grants a certificate of public convenience and necessity to provide resold local exchange and interexchange services in California. A06-09-004 is closed.  
(Comr Chong - ALJ Galvin)  
**Outcome Signed**  
[D07-02-017](#)  
Yes: (Bohn, Chong, Grueneich, Peevey)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 20**  
[6327]      **Res SX-77 - City of Coachella (City).**  
This resolution authorizes the City a temporary overhead clearance of not less than 21 feet above the top of the highest rail during the construction of an overpass bridge structure, the Dillon Road Overhead Structure, a grade-separated highway-rail crossing over Union Pacific Railroad Company's Yuma Subdivision Line tracks in the City, County of Riverside.  
**Outcome Approved**  
[Res SX-77](#)  
Yes: (Bohn, Chong, Grueneich, Peevey)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 21**  
[6328]      **A06-11-004 - Mountain Utilities.**  
For authority to issue evidence of indebtedness and to grant security interest in assets as security therefore in order to refinance existing debt and to provide additional debt capital for investment into additional assets. This decision grants the relief sought to enter into a secured \$4,000,000 long-term loan and secure a \$1,500,000 line of credit to lease equipment, both subject to certain limitations. The authority is exempt from competitive bidding requirements. Applicant must comply with any applicable environmental and other discretionary permitting processes before proceeding with capital projects financed using the proceeds obtained under this authority. This proceeding is closed.  
(Comr Bohn - ALJ Long)  
**Outcome Held (3/1/07, Consent Agenda.)**  
Yes: (none)  
No: (none)  
Abstain: (none)  
Absent: (none)

**22**

[6329]

**A06-11-011 - Lightyear Network Solutions, LLC, First Communications, LLC, and Xtension Services, Inc. (Applicants).**

This decision authorizes the transfer of control of Applicants to First Communications, Inc. The application is unopposed. This proceeding is closed.

(Comr Chong - ALJ Patrick)

**Outcome Signed**[D07-02-018](#)

Yes: (Bohn, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

**23**

[6330]

**A06-09-012 - Sonoma County Airport Express, Inc. dba Sonoma County Winehopper.**

The decision authorizes Applicant to expand its passenger stage corporation operation to include scheduled service between hotels located in Santa Rosa and Rohnert Park, on the one hand, and wineries located in Santa Rosa, Kenwood, and Geyserville, on the other hand; and to establish a zone of rate freedom. This proceeding is closed.

(Exam Clark)

**Outcome Signed**[D07-02-019](#)

Yes: (Bohn, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

**24**

[6331]

**A06-10-022 - Agile Transportation and Shuttle Service, Inc.**

This decision authorizes Applicant to operate as a passenger stage corporation between points in Los Angeles, Orange, Riverside, San Bernardino, and Ventura Counties, on the one hand, and Los Angeles International, Burbank, John Wayne, Long Beach, and Ontario International Airports, on the other hand. This proceeding is closed.

(Exam Clark)

**Outcome Signed**[D07-02-020](#)

Yes: (Bohn, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

**25**

[6332]

**A05-11-018 - Red Vans Mg'mt Services, Inc.**

For authority of a passenger stage certificate consistent with Public Utilities Code §§ 226 & 1031 to conduct an on-call airport shuttle service to points in Los Angeles, Orange, Ventura, Riverside and San Bernardino Counties on the one hand and Los Angeles World Airport, John Wayne Airport, Ontario International Airport, Long Beach Airport, Bob Hope Airport, Los Angeles/Long Beach Harbor, AMTRAC and the Greyhound Terminal on the other hand and for a Zone of Rate Freedom pursuant to P.U. Code § 454.2. Applicant's petition to modify Ordering Paragraph 9 of D06-03-009 to extend to one year the time to commence operations as a passenger stage corporation is granted. This proceeding is closed.

(Exam Clark)

**Outcome Signed**[D07-02-021](#)

Yes: (Bohn, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

**26**

[6333]

**A05-09-013 - Shabnam Tajmiri dba AAA Shuttle.**

This decision authorizes Applicant to operate as a passenger stage corporation between points in Orange County and John Wayne Airport. This proceeding is closed.

(Exam Clark)

**Outcome Signed**[D07-02-022](#)

Yes: (Bohn, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

**27**

[6334]

**A05-11-019 - SKK Enterprises, Inc.**

For approval of a passenger stage certificate consistent with Public Utilities Code §§ 226 & 1031 to conduct an on-call airport shuttle service to points in Los Angeles, Orange, Ventura, Riverside and San Bernardino Counties on the one hand and Los Angeles World Airport, John Wayne Airport, Ontario International Airport, Long Beach Airport, Bob Hope Airport, Los Angeles/Long Beach Harbor, AMTRAC and the Greyhound Terminal on the other hand and for a Zone of Rate Freedom pursuant to P.U. Code § 454.2. This decision grants the petition to modify Ordering Paragraph 9 of D06-03-011 to extend to one year the time to commence operations as a passenger stage corporation. This proceeding is closed.

(Exam Clark)

**Outcome Signed**[D07-02-023](#)

Yes: (Bohn, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

**28**

[6335]

**A06-09-005 - City of Fillmore (City).**

This decision grants the request of the City to construct an at-grade crossing of B Street across a track of the Ventura County Transportation Commission's Santa Paula Branch Line in Fillmore, Ventura County. This proceeding is closed.

(Exam Clark)

**Outcome Signed**[D07-02-024](#)

Yes: (Bohn, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

**29**

[6336]

**A06-08-032 - City of Torrance (City).**

This decision grants the request of the City to construct a grade-separated crossing of Del Amo Boulevard above tracks of the BNSF Railway Company - Los Angeles County Metropolitan Transportation Authority's Harbor Branch Line in Los Angeles County. This proceeding is closed.

(Exam Clark)

**Outcome Signed**[D07-02-025](#)

Yes: (Bohn, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

**30**

[6355]

**R93-04-003 - Rulemaking on the Commission's own motion to govern open access to bottleneck services and establish a framework for network architecture development of dominant carrier networks.**

I93-04-002 - Related matters. This decision adopts a settlement agreement resolving outstanding issues related to the rates charged by AT&T California (AT&T) for collocation services to competitive local exchange carriers (CLECs). The settlement would make permanent the rates previously paid by CLECs for AT&T's collocation services and would permit CLECs to opt for lower tariffed rates going forward, which would remain in effect for three years. The settlement does not apply to Verizon.

(Comr Peevey - ALJ Malcolm)

**Outcome Held (3/1/07, Consent Agenda.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**31**

[6356]

**A04-08-018 - Southern California Gas Company.**

For approval to establish regulatory authority over the access for natural gas provided by California gas producers. This decision extends the 18-month statutory deadline in this proceeding by 60 days to April 30, 2007.

(Comr Peevey - ALJ Wong)

**Outcome Signed**

[D07-02-026](#)

Yes: (Bohn, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

**32**

[6358]

**Res T-17073 - AT&T California (AT&T).**

This resolution approves one Commercial Mobile Radio Service Interconnection Agreement between AT&T and Metrolink, Inc. pursuant to Section 252 of the Telecommunications Act of 1996, and in accordance with the provision of General order 96-A, and Resolution ALJ-181. (Advice Letter 29332, filed January 9, 2007)

**Outcome Approved**

[Res T-17073](#)

Yes: (Bohn, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

**33**  
[6362]

**I \_\_\_\_\_ - Order Instituting Investigation on the Commission's own motion into the rates, operations, practices, services and facilities of San Diego Gas & Electric Company and Southern California Gas Company.**

A companion investigation consolidated with the Test Year 2008 General Rate Cases for San Diego Gas & Electric Company and Southern California Gas Company.

**Outcome Signed**

[I07-02-013](#)

Yes: (Bohn, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

**34**  
[6365]

**A06-10-007 - San Diego Gas and Electric Company (SDG&E).**

This decision adopts a 2007 Energy Resource Recovery Account (ERRA) revenue requirement forecast of \$577.5 million, a Competitive Transition Charge (CTC) Market Proxy Price of \$74.35 per megawatt hour, a CTC revenue requirement of \$69.3 million for SDG&E. This forecast represents an increase of approximately \$99 million, or 20.7%, over its 2006 ERRA revenue requirement forecast.

This proceeding is closed.

(Comr Peevey - ALJ Galvin)

**Outcome Signed**

[D07-02-027](#)

Yes: (Bohn, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

**35**  
[6369]

**Res W-4633 - Hillview Water Company, Inc. (Hillview).**

This resolution authorizes Hillview to secure an additional \$400,000 under the Safe Drinking Water State Revolving Fund loan program and to file an advice letter to impose the surcharge rates. (Advice Letter 78, filed December 14, 2006)

**Outcome Approved**

[Res W-4633](#)

Yes: (Bohn, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

**36**

[6372]

**A06-07-028 - Southern California Gas Company (SoCalGas).**

This decision grants approval of a long-term gas transportation agreement between Taft Production Company, a subsidiary of Oil-Dri Corporation, and SoCalGas. This proceeding is closed.

(Comr Grueneich - ALJ Thomas)

**Outcome Held (3/1/07, Consent Agenda.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**37**

[6373]

**A05-05-001 - Pacific Gas and Electric Company (PG&E).**

A06-05-016 - Related matters. This decision adopts the findings and recommendations of the Commission's staff regarding the amounts posted to PG&E's Interruptible Load Program Memorandum Account for years 2004 and 2005, and permits PG&E to recover these amounts. A05-05-001 is closed.

(Comr Peevey - ALJ Ebke)

**Outcome Signed**

[D07-02-028](#)

Yes: (Bohn, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

**38**

[6376]

**C05-07-021 - Utility Consumers' Action Network (UCAN) vs. Sprint Telephony PCS, L.P., Wirelessco, L.P., dba Sprint PCS.**

This decision awards UCAN \$28,279 in compensation for its substantial contributions to D06-10-008. This proceeding is closed.

(Comr Grueneich - ALJ Bushey)

**Outcome Signed**

[D07-02-029](#)

Yes: (Bohn, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

**39**

[6378]

**Res ST-83**

This resolution approves San Francisco Bay Area Rapid Transit (BART) District's Safety and Security Certification Plan for the BART VTA Silicon Valley Rapid Transit Project.

**Outcome   Approved**

[Res ST-83](#)

Yes: (Bohn, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)



---

## Regular Agenda

### Energy Orders

**40** **R05-02-023 - Order Instituting Rulemaking to revise Commission General Order Number 95**  
[6082] **pursuant to D05-01-030.**

The ALJ has withdrawn his proposed decision and supports the assigned Commissioner's alternate decision, Agenda ID# 6159.

(Comr Peevey - ALJ Walker)

Agenda 3182, Item 30 11/9/2006 (Staff);

Agenda 3184, Item 34 12/14/2006 (Bohn);

Agenda 3185, Item 29 1/11/2007 (Peevey);

Agenda 3186, Item 26 1/25/2007 (Bohn)

**Outcome Withdrawn**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**40a** **ALTERNATE TO ITEM 6082**

[6158] This alternate decision revises General Order 95 to establish uniform construction standards for attaching wireless antennas to jointly used poles. This decision approves an unopposed settlement agreement and adopts a new Rule 94 as agreed to by the settling parties. This decision also requires that antenna owners submit information about certain antenna installations to the Commission's Consumer Protection and Safety Division. This proceeding is closed.

(Comr Chong)

Agenda 3184, Item 34a 12/14/2006 (Bohn);

Agenda 3185, Item 29a 1/11/2007 (Peevey);

Agenda 3186, Item 26a 1/25/2007 (Bohn)

**Outcome Signed**

[D07-02-030](#)

Yes: (Bohn, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

**40b**

[6159]

**ALTERNATE TO ITEM 6082**

This alternate decision adopts in its entirety, pursuant to Public Utilities Code §451 and §761 the Rule 94 previously sponsored by the Commission's Consumer Protection and Safety Division (CPSD), the International Brotherhood of Electrical Workers Local 1245, the Communications Workers of America-Ninth District, Pacific Gas and Electric Company and San Diego Gas & Electric Company. This alternate decision also rejects assertions of some parties that elements of the new Rule 94 are preempted by the Telecommunications Act of 1996 and Federal Communications Commission (FCC) rules regulating radio frequency (RF) exposure, concluding instead that mere acknowledgment of the FCC's RF rules does not preempt a state agency that enacts construction rules intended to provide a safe working environment for those climbing and working on utility poles bearing electrical overhead lines. Where the proposed decision would adopt a settlement agreement supported by several of the parties, this alternate rejects the settlement agreement because it would remove critical worker safety provisions from Rule 94 and substitute private agreements between some (but not all) pole owners and some (but not all) RF antenna owners. The settlement's contractual provisions cover only a subset of utilities within Commission jurisdiction. These private agreements would clearly exclude many utilities who are not signatories to the settlement agreement and would limit this Commission's oversight authority and CPSD enforcement in protecting worker safety. This alternate decision therefore finds that the settlement agreement is not in the public interest.

(Comr Peevey)

Agenda 3184, Item 34b 12/14/2006 (Bohn);

Agenda 3185, Item 29b 1/11/2007 (Peevey);

Agenda 3186, Item 26b 1/25/2007 (Bohn)

**Outcome Withdrawn**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

---

**Energy Resolutions and Written Reports****41                    Res E-4054 - Pacific Gas and Electric Company.**

[6258]                This resolution requests approval of the increase in capital cost and resulting revenue requirement for Contra Costa 8. This request is conditionally approved as discussed in the body of this Resolution.

(Advice Letter 2928-E filed November 8, 2006)

Agenda 3186, Item 32 1/25/2007 (Staff)

**Outcome    Approved**

Res E-4054

Yes: (Bohn, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

**42                    Res E-4059 - Southern California Edison Company (SCE).**

[6267]                This resolution authorizes SCE to add a Day-Of option to its Capacity Bidding Program. (Advice Letter 2057-E, filed November 8, 2006.)

Agenda 3186, Item 34 1/25/2007 (Staff)

**Outcome    Approved**

Res E-4059

Yes: (Bohn, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

**43                    Res E-4044 - Pacific Gas and Electric Company.**

[6313]                This resolution approves a new memorandum account and other tariff modifications to record and track negative above-market costs included in ongoing Competition Transfer Charge to implement directives in D05-12-045. (Advice Letter 2779-E, filed February 7, 2006)

**Outcome    Approved**

Res E-4044

Yes: (Bohn, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

**44**

[6322]

**Res E-4029 - Pacific Gas and Electric Company (PG&E).**

This resolution approves with modifications PG&E's proposal to offer an optional service to selected irrigation districts and water agencies to distribute the proceeds of the agency's hydroelectric power sales via bill credits to PG&E's electric customers within the agency's jurisdictional boundaries.

(Advice Letter 2834-E, filed May 25, 2006)

**Outcome Held (3/1/07.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**45**

[6323]

**Res E-4057 - Pacific Gas and Electric Company (PG&E).**

This resolution approves PG&E's request to re-bill departing load customers for the ongoing Competition Transition Charge adopted by D05-02-040. (Advice Letter 2805-E, filed March 28, 2006)

**Outcome Approved**

Res E-4057

Yes: (Bohn, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

**46**

[6337]

**Res E-4061 - Pacific Gas and Electric Company (PG&E).**

This resolution authorizes PG&E to shift \$4.68 million from other Demand Response program budgets to install 5,000 AC Cycling devices by June 2007, providing PG&E an additional 5 MW of Demand Response. PG&E's proposal to disallow Critical Peak Pricing customers to participate in the AC Cycling program is denied. (Advice Letter 2946-E, filed December 8, 2006)

**Outcome Approved**

Res E-4061

Yes: (Bohn, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

**47**

[6338]

**Res E-4062 - Pacific Gas and Electric Company (PG&E).**

This resolution approves the agreement between PG&E and State of California Department of Water Resources for demand response during the summer of 2007. (Advice Letter 2936-E, filed November 20, 2006)

**Outcome Approved**

Res E-4062

Yes: (Bohn, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

---

**Telecommunication Orders****48**  
[6089] **R95-04-043 - Order Instituting Rulemaking on the Commission's own motion into competition for local exchange service.**

I95-04-044 - Related matters. This decision resolves issues relating to intercarrier compensation for "virtual" NXX traffic transported over the networks of Small Local Exchange Carriers, pursuant to the directives in D03-09-005.

(Comr Peevey - ALJ Pulsifer)

Agenda 3182, Item 37 11/9/2006 (Peevey);

Agenda 3183, Item 46 11/30/2006 (Peevey);

Agenda 3184, Item 49 12/14/2006 (Brown);

Agenda 3185, Item 31 1/11/2007 (Chong);

Agenda 3186, Item 36 1/25/2007 (Chong)

**Outcome Signed**

D07-02-031

Yes: (Bohn, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

**49**  
[6270] **C05-11-011 - Utility Consumers' Action Network vs. SBC Communications, Inc., dba Pacific Bell Telephone Company, and related entities.**

C05-11-012 - Related matters. This decision determines that an agent of AT&T California (AT&T) and an agent and attorney of Cox Communications (Cox) engaged in impermissible ex parte communications with personal advisors of three Commission offices with the intent of influencing substantive issues in pending adjudications (where ex parte bans had been imposed). This decision determines that, in violation of the Public Utilities Code and our Rules of Practice and Procedure, impermissible ex parte violations have occurred and the Commission should impose sanctions including a fine of \$40,000 each against AT&T and Cox.

(Comr Bohn - ALJ Thorson)

Agenda 3186, Item 37 1/25/2007 (Peevey)

**Outcome Held (3/1/07. Further consideration.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**50**

[6325]

**R06-10-005 - Rulemaking for adoption of a general order and procedures to implement the Digital Infrastructure and Video Competition Act of 2006.**

This decision adopts a General Order and establishes procedures for implementing the Digital Infrastructure and Video Competition Act of 2006, Assembly Bill 2987 (Ch. 700, Stats. 2006).  
(Comr Chong - ALJ Sullivan)

**Outcome Held (3/1/07.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**Legal Division Matters****51 (Rev.)****TSA-2006-26514**

[6382]

The TSA proposes to apply a federal preemption standard, subject matter coverage, to state conducted security risk assessments, vulnerability assessments, and infrastructure protection programs. The Commission's comments ask that the TSA apply a less restrictive form of federal preemption, i.e., "substantially the same" regulations may be passed by the states.

02/07/2007 - This revision was not shown on the Agenda mailed to the public.

**Outcome   Approved-Staff Recommendation**

TSA-2006-26514

Yes: (Bohn, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)



---

## Legislative and Other Matters

**52**

### **2007 Legislative Package**

[6321]

Staff Proposal for Legislation Approved by the Legislative Sub Committee. Legislative Proposal One  
- Water Low Income Ratepayer Assistance.

Agenda 3186, Item 38 1/25/2007 (Staff)

### **Outcome Withdrawn**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

## Closed Session

*This notice is furnished under Government Code Sections 11125 and 11126.3. The Commission will meet in Closed Session following the Public Session of its regularly scheduled meeting. In the Closed Session, the Commission may consider personnel matters as provided under Government Code Section 11126(a), institution of proceedings or disciplinary actions against any person or entity under the jurisdiction of the Commission as provided under Government Code Sections 11126(d)(2) and 11126(e)(2)(C)(i), and pending litigation as provided under Government Code Section 11126(e). Additional items may be added to the closed session agenda pursuant to Gov. Code Section 11126.3(d). If in Closed Session the Commission votes to appoint, employ, or dismiss a public employee, the Commission will thereafter reconvene in Open Session to make the*

### Applications for Rehearing

54

[6361]

#### **R04-01-025 - Conference With Legal Counsel - Applications for Rehearing**

Disposition of Applications for Rehearing of D06-09-039 filed by Ratepayers for Affordable Clean Energy, South Coast Air Quality Management District and the City of San Diego. The California Attorney General also filed an amicus curiae brief in support of the rehearing applications. In D06-09-039, the Commission determined that the California Environmental Quality Act does not apply to Phase II of R04-01-025, and that therefore no environmental review was necessary during Phase II of the proceeding.

#### **Outcome Signed**

D07-02-032

Yes: (Bohn, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

55

[6364]

#### **A07-01-020 - Conference with Legal Counsel - Application for Rehearing**

Disposition of Application for Rehearing of Resolution E-4055 filed by Californians for Renewable Energy, Inc. Resolution E-4055 approves two wholesale electric purchase power agreements (PPAs) for purposes of meeting Pacific Gas and Electric Company's (PG&E) local Resource Adequacy requirement in the Bay Area load pocket for the period from 2008 to 2011. The PPAs are between PG&E and two subsidiaries of Calpine Corporation, Metcalf Energy Center, LLC and Los Medanos Energy Center, LLC.

#### **Outcome Signed**

D07-02-033

Yes: (Bohn, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

**56**

[6374]

**A04-03-014 - Conference with Legal Counsel - Applications for Rehearing**

Disposition of the applications for rehearing of D06-02-035 in A04-03-014 by Verizon California, Inc. and by A+ Wireless et al. D06-02-035 adopted an amendment to existing interconnection agreements that various competitive local exchange carriers have with Verizon in this change-of-law proceeding resulting from changes in federal unbundling obligations of incumbent local exchange carriers.

**Outcome Signed**

D07-02-034

Yes: (Bohn, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

**57**

[6375]

**A04-01-009 - Conference with Legal Counsel - Application for Rehearing**

Disposition of Joint Application for Rehearing of Decision (D) 06-06-056, D06-06-057, and D06-06-058, filed by: The Utility Reform Network (TURN); San Luis Obispo Mothers For Peace, Sierra Club, and Public Citizen (MFP Parties); and Aglet Consumer Alliance (Aglet). D06-06-057 granted MFP Parties \$146,687.40 of the \$433,574.83 that they and another party, Environment California, jointly requested as intervenor compensation for participating in this proceeding. D06-06-056 granted TURN \$106,689.35 of the \$169,789.05 it requested as intervenor compensation for participating in this proceeding. D06-06-058 granted Aglet \$30,349.17 of the \$65,181.67 it requested as intervenor compensation in this proceeding.

**Outcome Signed (Comr. Grueneich recused herself from this agenda item and was not part of the quorum in its consideration.)**

D07-02-035

Yes: (Bohn, Chong, Peevey)

No: (none)

Abstain: (none)

Absent: (none)